

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jonathan Turner,

File No. 23-cv-559 (ECT/ECW)

Petitioner,

v.

ORDER

Tracy Beltz, *warden of MCF Faribault*,

Respondent.

Petitioner Jonathan Turner commenced this action pro se by filing a “Motion for a Stay and Abeyance,” which the clerk’s office docketed as a petition for a writ of habeas corpus. Pet. [ECF No. 1]. The case is before the Court on a Report and Recommendation [ECF No. 9] issued by Magistrate Judge Elizabeth Cowan Wright. Magistrate Judge Wright recommends dismissing Turner’s petition without prejudice for failure to prosecute because, at the time the R&R issued, Turner had not paid the nominal fee for initiating habeas corpus litigation in this District, nor had he asked to be excused from paying that fee. R&R at 3. On April 24, 2023, Turner filed objections to the Report and Recommendation, ECF No. 10, along with an application to proceed in forma pauperis in this action, ECF No. 11. Because Turner has filed his IFP application within the time allowed for filing objections to the R&R, the case will proceed to screening for evaluation of Turner’s IFP application.

Therefore, based upon all the files, records, and proceedings in this case, **IT IS ORDERED THAT:**

1. The Objection to the Report and Recommendation [ECF No. 10] is **SUSTAINED** to the extent Turner seeks screening of his IFP application.
2. The Report and Recommendation [ECF No. 9] is **OVERRULED** only to the extent it recommends dismissal of the action for failure to prosecute at this time.
3. The action can proceed to screening of Turner's IFP application.

Dated: April 25, 2023

s/ Eric C. Tostrud

Eric C. Tostrud

United States District Court